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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91184978
Party	Defendant Walgreen Co.
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Date	02/15/2011
Attachments	2011.02.15 Stipulation for Trial Testimony by Affidavit - Simonson.pdf ( 3 pages ) (70572 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

McNEIL-PPC, INC.,

Opposer,

-against-

WALGREEN CO.,

Applicant.

**Opp. No. 91184978**

**STIPULATION FOR TRIAL TESTIMONY VIA AFFIDAVIT**

Pursuant to Rule 2.123(b) of the Trademark Rules of Practice, 37 C.F.R. § 2.123(b), the parties, Walgreen Co. ("Walgreens") and McNEIL-PPC, Inc. ("McNEIL"), through their undersigned counsel, stipulate that the direct trial testimony of Dr. Alex Simonson concerning the contents and authenticity of the expert report dated July 7, 2009 prepared by Dr. Simonson in connection with this opposition may be submitted by affidavit in lieu of an oral deposition. Walgreens agrees to serve such trial affidavit on McNEIL by February 23, 2011. McNEIL retains the right to object to the assertions and findings submitted through said affidavit and expert report. McNEIL retains the right, upon appropriate notice and on a date mutually agreed between the parties, to cross-examine Dr. Simonson by deposition upon oral examination, or to cross-examine Dr. Simonson through use of his discovery deposition conducted on October 1, 2009. If McNEIL cross-examines Dr. Simonson in either way, Walgreens retains the right to conduct re-direct examination in the same manner, limited to the subjects raised by McNEIL in cross-examination.

Dated: February 15, 2011

By: 

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Dated: February 15, 2011

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*Attorneys for Applicant, Walgreen Co.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above foregoing "Stipulation for Trial Testimony by Affidavit" was served by first class mail and e-mail on February 15, 2011 to:

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Michelle L. Calkins